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MEMORANDUM FOR: Director of Congressional Affairs

FROM: Robert W. Magee
Director of Personnel

SUBJECT: Department of Health and Human Services comments on Labor Department views letter on H.R. 2672, "Federal Retirement Reform Act"

REFERENCE: Memo to Multiple Addressees frm OMB, dtd 21 Feb 86, Same Subject

We have reviewed the comments from the Department of Health and Human Services forwarded with reference and have no objections to the statements and recommendations contained therein.

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Robert W. Magee

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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SPECIAL

February 21, 1986

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -
Labor Department - Pete Galvin - 523-7713
OPM - Frances Bolden - 632-4682
State Department - Torrey Whitman - 647-5158
Central Intelligence Agency ✓

SUBJECT: Department of Health and Human Services comments on Labor Department views letter on H.R. 2672, "Federal Retirement Reform Act"

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than February 28, 1986, by telephone.

Questions should be referred to Hilda Schreiber (395-7362), the legislative analyst in this office.

Naomi R Sweeney

Naomi R. Sweeney for
Assistant Director for
Legislative Reference

Enclosures

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

The Honorable James C. Miller, III
Director
Office of Management & Budget
Washington, D.C. 20503

FEB 18 1986

Dear Mr. Miller:

This is in response to your request for a report on Secretary of Labor William E. Brock's comments on proposals now before Congress to establish a supplemental retirement plan for new Federal employees hired after December 31, 1983.

At this time, Congress is considering two proposals for a supplemental retirement plan for new Federal employees: a Senate version, H.R. 2672 (formerly S. 1527), and a House version, H.R. 3660. These two versions are now headed for Conference Committee negotiations.

Secretary Brock's letter of January 14, 1986, deals principally with the relationship between employee claims under the Federal Employees Compensation Act (FECA), administered by the Department of Labor, and disability and retirement benefits to be provided under a new supplemental retirement system. These supplemental benefits, administered by the Office of Personnel Management, will augment primary benefits under Social Security, administered by the Department of Health and Human Services.

Secretary Brock's letter requests that any Administration position expressed during Conference Committee negotiations reflect a view that the relationship between FECA and the disability and retirement benefits of a final supplemental retirement plan be parallel to the relationship under other private and public sector plans.

We have several specific comments concerning Secretary Brock's comments on the proper relationship between FECA and Social Security benefits. These are explained in detail in the enclosure. In general, we defer to the Secretary of Labor on the issues he raised, except for the specific items discussed in the enclosure.

Sincerely,

Secretary

Enclosures

Comments on Department of Labor Letter to OMB
Concerning H.R. 2672

The letter from the Department of Labor (DOL) recommends several changes concerning the treatment of Federal Employees' Compensation Act (FECA) benefits under H.R. 2672--the Senate-passed bill establishing a new Federal civil service retirement system:

(1) DOL recommends that the bill specifically provide that survivors receiving civil service benefits should elect either FECA benefits or basic civil service benefits. (The bill already requires employees to elect FECA benefits or basic civil service retirement or disability benefits.)

Comment: Defer to DOL. It should be noted, however, that 5 U.S.C. 8116 (attached) already requires such an election for survivors. Presumably, section 8116 would still apply since it has not been repealed by the Senate bill. A clarification would, however, be helpful since the bill specifically addresses treatment of dual entitlement to FECA benefits and civil service disability/retirement benefits, but not survivor benefits.

(2) DOL recommends that section 306 (DOL incorrectly refers to section 307 rather than 306) be revised so that FECA benefits would not be offset by the amount of Social Security disability benefits attributable to Federal covered employment. They also recommend that a new section be added to the bill providing instead for reducing Social Security disability benefits based on receipt of FECA benefits.

Comment: While we recognize the intent of the bill is to provide consistent treatment of persons receiving FECA benefits and any type of Social Security benefits, we agree that FECA benefits should not be reduced by Social Security disability benefits. Rather, as already provided under section 224 of the Social Security Act, the proper approach would be an offset in the Social Security disability benefit for receipt of FECA benefits. Reducing the Social Security disability benefit (rather than the FECA benefit) would be consistent with the principle that workers' compensation payments are intended to be the primary source of wage replacement in cases of work-related disability and that the financial responsibility for work-related injuries should not be shifted from employers to Social Security taxpayers.

Given that the disability offset provision is already included in section 224 of the Social Security Act, it is not clear why a new section needs to be added to the bill to assure that Social Security disability benefits are offset by FECA benefits.

(3) DOL recommends that section 306 of the bill be modified so that FECA benefits would be offset by Social Security survivor benefits based on the employee's Federal covered employment--in the same manner that Social Security retirement benefits would result in a FECA benefit offset under section 306. DOL notes (a) that pursuant to 5 U.S.C. 8116, survivors might have to make an election between their FECA benefits and any Social Security survivor benefits payable based on the employee's Federal employment covered by Social Security and (b) that an offset would be preferable to an election.

Comment: We defer to DOL on whether FECA benefits should be offset for Social Security survivor benefits based on Federal covered employment in the same manner that the bill proposes to offset Social Security retirement benefits. However, it appears to us that the present law provisions in 5 U.S.C. 8116 need to be repealed or modified to accomplish this result since the FECA benefit offset in section 306 does not seem consistent with the election requirement in 5 U.S.C. 8116.

The provision in 5 U.S.C. 8116 presumably would still apply to the FECA benefit provisions as modified by the Senate bill. Under 5 U.S.C. 8116(b) an employee or survivor eligible for FECA benefits and any other Federal benefit based on the employee's injury or death must elect within 1 year after the injury or death to get either the FECA benefit or the other Federal benefit(s). Contacts with DOL staff indicate that while this provision is now being administered to only mean that the person must choose between FECA and Federal civil service benefits, the language in the statute could be interpreted to require an election between FECA benefits and Social Security disability or survivor benefits based on Federal covered employment. (The current interpretation appears to be based on the fact that most Federal civilian employment is not covered by Social Security.)

Since the Senate bill does not amend 5 U.S.C. 8116, and since 5 U.S.C. 8116 and section 306 presumably cannot both apply at the same time to the same case, DOL's letter should acknowledge this and explain their recommendation concerning modification of the provisions in 5 U.S.C. 8116.

(4) DOL recommends that the offset in section 306 of the bill be triggered by receipt of Social Security benefits rather than potential entitlement to those benefits.

Comment: Do not oppose.

We have no comments on the DOL recommendations concerning ERISA-related aspects of the House and Senate civil service bills.

(3) his usual employment;
(4) his age;
(5) his qualifications for other employment;
(6) the availability of suitable employment; and
(7) other factors or circumstances which may affect his wage-earning capacity in his disabled condition.

(b) Section 8114(d) of this title is applicable in determining the wage-earning capacity of an employee after the beginning of partial disability.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 542.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 763	Sept. 7, 1916, ch. 458, § 13, 39 Stat. 746. Oct. 14, 1949, ch. 691, § 204, 63 Stat. 864. Sept. 13, 1960, Pub. L. 86-707, § 204, 74 Stat. 908.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8116. Limitations on right to receive compensation

(a) While an employee is receiving compensation under this subchapter, or if he has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, he may not receive salary, pay, or remuneration of any type from the United States, except—
(1) in return for service actually performed;
(2) pension for service in the Army, Navy, or Air Force;
(3) other benefits administered by the Veterans' Administration unless such benefits are payable for the same injury or the same death; and
(4) retired pay, retirement pay, retainer pay, or equivalent pay for service in the Armed Forces or other uniformed services, subject to the reduction of such pay in accordance with section 5532(b) of title 5, United States Code.

However, eligibility for or receipt of benefits under subchapter III of chapter 83 of this title, or another retirement system for employees of the Government, does not impair the right of the employee to compensation for scheduled disabilities specified by section 8107(c) of this title.

(b) An individual entitled to benefits under this subchapter because of his injury, or because of the death of an employee, who also is entitled to receive from the United States under a provision of statute other than this subchapter payments or benefits for that injury or death (except proceeds of an insurance policy), because of service by him (or in the case of death, by the deceased) as an employee or in the armed forces, shall elect which benefits he will receive. The individual shall make the election within 1 year after the injury or death or within a further time allowed for good cause by the Secretary of Labor. The election when made is irrevocable, except as otherwise provided by statute.

(c) The liability of the United States or an instrumentality thereof under this subchapter or any extension thereof with respect to the injury or death of an employee is exclusive and instead of all other liability of the United States or the instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or the instrumentality because of the injury or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute. However, this subsection does not apply to a master or a member of a crew of a vessel.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 542; Pub. L. 90-83, § 1(56), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, § 9(a), Sept. 7, 1974, 88 Stat. 1145.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 767	Sept. 7, 1916, ch. 458, § 7, 39 Stat. 743. July 1, 1944, ch. 373, § 606(a), 58 Stat. 713. Aug. 13, 1946, ch. 958, § 8, 60 Stat. 1049. Oct. 14, 1949, ch. 691, § 201, 63 Stat. 861. July 30, 1956, ch. 779, § 3(b), 70 Stat. 721. Sept. 13, 1960, Pub. L. 86-707, § 202, 74 Stat. 907. Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919.

In subsection (a)(2), "Air Force" is added on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502, and sections 8010—8013 of title 10, United States Code. This does not affect the operation of this subsection insofar as it concerns members of the Coast Guard whose pension is based in whole or in part on service with the Coast Guard when it operated as a part of the Navy.

In subsection (b), the reference to the definition of "employee" in former section 790 is omitted as unnecessary as the definition is included in section 8101 for the entire subchapter.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of Title 5	Source (U.S. Code)	Source (Statutes at Large)
8116(a)	5 App.: 757(a)	July 4, 1966, Pub. L. 89-488, § 5(a), 80 Stat. 253.

The words "another retirement system for employees of the Government" are substituted for "any other Federal Act or program providing retirement benefits for employees".

F5-10185.4
Schultz
Rec'd LRD
1-21-86

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

January 14, 1986

The Honorable James C. Miller III
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Jim:

I am writing to advise you of our views on H.R. 2672, pertaining to disability and retirement benefits for Federal employees hired after January 1, 1984. This bill is now in conference. We would appreciate inclusion of our views in any Administration communication to the conferees.

Both the Senate version of H.R. 2672 and the bill that will be the basis of the House position in conference (H.R. 3660) build a retirement and disability system for new Federal workers, based on a combination of Social Security benefits and supplemental benefits. They also provide for the establishment of a thrift savings plan by which employees may, if they choose, contribute a certain percentage of their income to an investment fund. For such employees the Government would also deposit to the fund a sum based on a percentage of the employees' contribution.

The Labor Department's primary interest in these bills pertains to their treatment of matters arising under the Federal Employees' Compensation Act (FECA) and the Employee Retirement Income Security Act (ERISA). With regard to FECA, we prefer the Senate bill. With regard to ERISA, we favor the policies currently reflected in both the House and Senate bills.

Regarding the FECA-related provisions of this legislation, we believe that an effective Federal disability and retirement system must have equitable provisions for handling situations where a Federal employee would be eligible for both workers' compensation benefits under FECA and retirement or disability benefits under the Federal retirement system or under other law. Under current law, these situations are addressed in a simple, straightforward manner; individuals must elect to receive either FECA benefits or benefits under the Federal disability or retirement system. They cannot receive both.

The disability and retirement systems contemplated by the Senate and House bills, however, are more complicated and require specificity regarding the manner in which each of their individual elements relate to FECA benefits. The elements of the proposed system are: (1) the basic Federal disability or retirement benefits; (2) the thrift plan; and (3) Social Security benefits. H.R. 3660 does not address the relationship between the elements of the new program and FECA at all. It is, therefore, unacceptable to us. The Senate bill does address these issues and establishes a framework which we believe is essentially equitable and proper. Within this framework, however, the Senate bill leaves some questions open and raises some concerns.

First, while the Senate bill properly continues the current requirement that a person eligible for FECA must elect between receiving FECA benefits and receiving basic Federal disability or retirement benefits, it does not address the election issue with regard to death cases. We assume that in cases of death, the Senate intended an election by survivors between FECA benefits and the basic retirement benefits, but we believe the language of the bill should clearly reflect that intention.

Second, the Senate bill provides that an individual eligible for both Social Security benefits (either retirement or disability) and FECA benefits would receive full Social Security benefits, but would have FECA benefits reduced on a dollar-for-dollar basis for those Social Security benefits which were based on Federal employment. We believe that this is a proper approach for Social Security retirement (OASI) benefits, but is not a proper approach for Social Security disability (SSDI) benefits. Our concern with having FECA benefits reduced when an individual is also receiving SSDI benefits is based on our view of the proper role of a workers' compensation system, which we believe is appropriately reflected in current law and should be retained in the new Federal retirement system.

Current law generally provides that if insurance benefits and workers' compensation benefits total more than 80 percent of pre-disability earnings, SSDI will be reduced. Thus, workers' compensation pays the "first dollar." We favor this approach because, by not reducing FECA benefits, it requires employers to pay for work-related injuries, improves safety incentives, and helps preserve the integrity of the Social Security Trust Fund. The Senate bill, however, would reverse this offset for Federal workers, reducing FECA benefits by the amount of Social Security disability benefits. Thus, the Social Security Trust Fund would in effect subsidize Federal employers whose workers have serious employment-related injuries.

We would therefore recommend that the offset in favor of workers' compensation established by section 307 of the Senate bill be limited to Social Security retirement benefits, and that a new section be added providing for application of the SSDI offset to FECA benefits in disability cases.

Another matter of concern with section 307 of the Senate bill is that it refers only to benefits payable to an employee or former employee. Accordingly, the proposed offset would not apply to survivors' benefits. Pursuant to 5 U.S.C. 8116, however, survivors might have to make an election between their FECA benefits and any Social Security death benefits. We believe the offset approach taken by the Senate bill with respect to employees is preferable to an election, and therefore recommend that section 307 be extended to include survivors' benefits.

We are also troubled by section 307's offset trigger. The language provides for an offset when Social Security benefits "are payable or, upon proper application, would be payable." This language could be interpreted to mean that an employee or former employee receiving benefits under FECA would at age 62 automatically have those benefits reduced by a presumed amount of Social Security benefits even if the employee has elected to delay receipt of such benefits to age 65. We believe the offset should be limited to Social Security benefits actually received.

On the whole, we believe the Senate bill represents a responsible approach to the proper apportioning of costs between the FECA system and the specific elements of the new retirement system contemplated by the bill.

We will now comment on the ERISA-related aspects of these bills. Both the Senate and the House bills include a thrift savings plan. This plan is similar to a private sector defined contribution plan. It is contemplated that the funds accumulated in the Federal plan will be managed in part by private sector investment fund managers who will be plan fiduciaries. Both bills also include a role for the Department of Labor in enforcing the fiduciary provisions governing the thrift plan's investment management system.

The Department believes that the standards governing fiduciary responsibility under the Federal plan should parallel those applicable to the private sector under the Employee Retirement Income Security Act (ERISA). The Federal Thrift Savings Plan will be the largest and most visible thrift plan in the country.

Its beneficiaries should be afforded the same protections as participants in private sector thrift plans, and its fiduciaries should be bound by the same standards of conduct as similar private sector plans.

Fiduciary standards similar to those in ERISA are also important for practical reasons. Adopting standards similar to private sector standards will facilitate the Department's regulation and enforcement activities. Standards are well developed and the regulatory structure is in place. ERISA-type standards will also facilitate compliance with the standards for the Federal plan because the private financial community and investment managers are already familiar with the current private sector fiduciary standards.

Finally, the Department favors ERISA-type standards because it feels their value and enforceability have already been well demonstrated. Indeed, great care should be taken in developing standards for the public sector plan because any major conceptual deviation from ERISA's standards could encourage the erosion of the well-established and proven private sector standards.

The House and Senate bills both require the Department to establish programs of compliance audits. Given the size of the thrift plan and the number of participants, the Department believes that such a program of audits is appropriate. However, we feel the administrative burden on the Department should be minimized and that sufficient resources should be provided to carry out these additional responsibilities.

The Department's final concern regarding the thrift plan is that economic considerations--i.e., risk and rate of return--be the basis for making investment decisions. Non-economic investment criteria are appropriate for selecting among investments only if the investment opportunities are of equal economic merit. If a pension plan is allowed to use non-economic criteria as a guide to investment decisions, fiduciary standards become unenforceable. Even more importantly, the use of non-economic criteria for selecting investments will ultimately harm plan participants by lowering investment returns and adversely affecting participants' retirement income security. Both the House and Senate bills currently appear to be drafted to protect plan participants' interest in this important regard.

Very truly yours,

WILLIAM E. BROCK

WEB:gdd

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release February 27, 1986

STATEMENT BY THE PRESIDENT

Today I am signing H.R. 4061, the Federal Employees Benefits Improvement Act of 1986. H.R. 4061 changes the Federal Employees Health Benefits law, as recommended by my Administration, to allow rebates of health insurance premiums to be paid by insurance carriers to Federal annuitants, as is already permitted for current employees.

It is gratifying for me to be able to sign this legislation so that Federal annuitants can receive their health insurance rebates without further delay.

I congratulate the Congress on enacting acceptable legislation to accomplish this change so quickly after my veto of H.R. 3384 last month. Like H.R. 4061, H.R. 3384 would have authorized premium rebates for Federal annuitants. However, I could not approve that bill, particularly because it contained a seriously objectionable provision that would have eliminated the current 75 percent limit on the Government contribution to any health insurance plan for Federal employees and annuitants. That provision would have been too costly over the next few years, contrary to our efforts to achieve a balanced budget by 1991.

I am very pleased that the Congress has dropped this expensive provision, and I urge the Congress now to turn its attention to the structural reforms in the Federal Employees Health Benefits program proposed by the Administration. These changes would encourage greater competition and choice of health plans for employees, restructure the formula for determining the Government's share of enrollee premiums, and decrease Government intrusion in the program.

# # # # # # #

cine Foundation is a small organization whose dedication and commitment to the people of El Salvador is much admired by all who have had the opportunity to study its work. To better acquaint my colleagues with this provider of basic health services, I wish to insert into the RECORD a brief summary of its programs and organizations.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EL SALVADOR MEDICAL PROJECT

The civil war in El Salvador has produced over half a million displaced persons and led to the collapse of the national health infrastructure, resulting in a profound public health crisis. Aesculapius International Medicine has responded by providing a health team from the United States now engaged in primary health care, preventative medicine, and health education to a Salvadoran population whose needs fall outside the scope of existing programs.

The project was established in August, 1984 in a rural village 50 kilometers north of San Salvador. Working directly and through health promoters, the project provides for the health needs of more than 60,000 people. In conjunction with the CAPS program of the Archdiocese of San Salvador, the Aesculapius team has participated in the training of over one hundred rural health promoters from all parts of the country. Fifty-three are from Chalatenango—the department in which our clinic is situated—and work under the medical supervision of the Aesculapius team. A second site, serving a population of over 60,000 will be established in the department of Usulatan in early 1986.

The Aesculapius team in 1985 consisted of one physician, two nurses and a health educator/administrator. Both nurses are public health specialists, and have worked for Aesculapius in El Salvador since August 1984. All four are unpaid volunteers, speak fluent Spanish, and have made a minimum twelve months commitment to the project. A nurse practitioner, a third public health nurse and a nutritionist will join the team in early 1986.

As a joint project with the Archdiocese of San Salvador in Chalatenango and the Diocese of Santiago de Maria in Usulatan, the project has been recognized in El Salvador as being strictly nonpolitical and humanitarian. This has permitted the project to continue, despite increasing political and military tensions in the area. The health work is nonsectarian in nature and available to all in need.

TRIBUTE TO JUDGE CHARLES FORD

Mr. HEFLIN. Mr. President, Judge Charles Ford, the probate judge of Choctaw County, AL, is one of a vanishing breed. He is an old-style probate judge, who is considered by the people of his county to be all things to them. They call upon him in almost every capacity. He is a friend, a helper, a county official, a caring politician, and generally all-around good fellow.

Judge Ford has served as probate judge of Choctaw County for 10 years. The people have become accustomed to relying upon him for advice on all sorts of problems. In addition to his probate judge duties, he is also the chairman of the Choctaw County Commission, which has charge of the highways and roads in that county, as well as all of the county services and departments. He puts in long hours and is never really away from the job, for at home he is constantly being visited by his constituents either in person or on the telephone. Judge Ford is genuinely loved by the people of Choctaw County for his kindly down-to-earth manner, as well as for his energetic efforts in helping each and every citizen who seeks his advice, counsel or assistance.

Recently, there appeared an article in the Mobile Press entitled "Judge Ford: 'I'm people all the time.' " This article is highly complimentary of the fine work that he does, and I ask unanimous consent that a copy of this article appear in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Mobile (AL) Press, Jan. 27, 1986]

JUDGE FORD: "I'M TWO PEOPLE ALL THE TIME"

(By Darla Graves)

BUTLER, AL—Living in a Choctaw County and serving the county's residents is a pleasure, according to Probate Judge Charles Ford.

Originally from the town of Pushmataha, Ala., Ford and his wife now reside in the city of Butler, Ala., the county seat.

Ford has served as probate judge in Choctaw County for 10 years. He said that when he first ran for the office in 1976, he had to defeat six worthy opponents, which was not as easy task. However, he did win and he said that he plans to run for re-election in 1988. An office term is six years.

When asked how he felt about being a judge, Ford replied, "I really love it because I can get involved in helping the needy of the county. My office is the highest elected office in the county, and it's a powerful office. But, I use it to help people; I never play politics."

Ford's duties as probate judge include probating wills, handling adoptions, issuing different types of licenses, performing marriages and things of that nature. He is also the chairman of the Choctaw County Commission.

"I have two jobs, actually. I serve in the capacity of probate judge and also as chairman of the county commission."

"There are, I believe, 34 counties in the state of Alabama in which the probate judge serves as the chairman. I'm two people all the time. I have to answer all the complaints of all four of the county commissioners," he said. "But we all, basically, get along very well."

Ford said the hardest type of cases for him are those in which he has to determine whether or not a person is mentally stable.

"When I study petitions, all the allegations are filled out in the petitions. Luckily, I know all the people in the county. I know the families, and I know their backgrounds. After all, I'm part of the people. So, I usually have to rely on my knowledge of the people in order to make a judgment on whether or not someone is mentally unstable. These cases are very hard to deal with," he said.

Ford said that he has one daughter who works for the Washington County Courthouse and two granddaughters. His wife is a secretary for a bank president in Butler and assists him in campaign efforts when she can. However, he said that he never stops campaigning.

Since his job is a "constant 24-hour job," he seldom has time for hobbies. But when he does he said he enjoys hunting and fishing. According to Ford, Choctaw County is an excellent area for hunting.

Ford said although he did not attend law school, which was not a prerequisite for the position of probate judge, he nonetheless feels that he is doing a good job for the people.

"I have always wanted to serve the people. If I am not working in the office, I will go out and visit in the county. I stay in contact with the people, and I know what they want. Therefore, I know what kind of job I'm doing, and the people will tell you, especially on election day."

One particular way that he serves the people to the best of his ability is through his marriage ceremonies. He said that a lot of people will come in from Mississippi to be married by him because there is a 3-day waiting period in Mississippi and a no waiting period in Alabama. Therefore, he said he performs a lot of marriages after hours and on Sundays.

He recalled one incident where a couple wanted to be married in the courthouse square and both the bride and groom wore overalls to the ceremony.

"They also wanted me to wear overalls, and, of course, I didn't mind because it was fun. Instead of throwing rice they threw corn. No invitations were sent out, but people saw what was going on and came to the square. We ended up having a huge crowd there," he said jokingly.

When asked if there was anything about his job that he would change if he could, Ford replied, "I don't have anything in particular that I would change. I am very pleased with the job, I simply enjoy serving the people and hope to continue to do so in the future."

THE FEDERAL EMPLOYEES BENEFITS IMPROVEMENT ACT OF 1986

Mr. STEVENS. Mr. President, section 101 of H.R. 4061 will enable retired Federal employees in the Federal Employees Health Benefits Program [FEHBP] to receive rebates which have been offered by 11 plans in the program.

Those rebates result from excessive reserves that accumulated in the program. In order to reduce these reserves, the Office of Personnel Management [OPM] authorized carriers in 1985 to pay rebates to currently enrolled subscribers. Rebates were authorized as a method for reducing the 1985 contributions of subscribers. Eleven carriers announced plans to make rebates to their 1985 subscribers and set aside reserves from which the rebates would be made.

OPM determined, however, that annuitants cannot receive the rebates because the present law does not authorize OPM to reduce the contributions of annuitants. Rebates to employees and annuitants were delayed pending consideration of this corrective legislation.

Employees, annuitants and the Government contribute to the health ben-

efits plans and should share proportionately in any rebates. This act amends 5 U.S.C. 8909(b) to give OPM specific authority to use excess contingency reserve balances to reduce the contributions of annuitants as well as the contributions of employees and the Government.

Section 101 of H.R. 4061 will be effective upon enactment, but rebates to annuitants will be authorized even if made to annuitants enrolled in a plan as of a specific date in 1985 in order to permit annuitants to share with employees in the 1985 reductions.

PENSION WELFARE

Mr. QUAYLE. Mr. President, on February 3, 1986, the Wall Street Journal published an editorial titled "Pension Welfare," which clearly demonstrated the need for true reform of our Nation's pension system. Given the importance of private pensions in our Nation, and the current crisis of the Pension Benefit Guaranty Corporation [PBGC], I urge my colleagues to read this editorial and take to heart its warning.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PENSION WELFARE

Back in 1974, the Watergate affair in Washington was what amounted to a political urban riot. The city was manic from a daily feeding of rumors, leaks and published bombshells. As sometimes happens during a riot, Washington's political authorities weren't able to keep track of what everyone in Congress was doing. Amidst all the tumult, Title IV slipped into the 1974 pension-reform act known as ERISA. Title IV is ERISA's federal pension-insurance system. Dress up Refrigerator Perry as Little Lord Fauntleroy, and you have a pretty good idea of how closely the current system resembles real insurance.

"We are in effect running a corporate welfare program that subsidizes declining industries," says Kathleen Utgoff, administrator of the Pension Benefit Guaranty Corporation (PBGC), which administers the insurance program. Rep. John Erlenborn, a principal architect of ERISA, says the system's premium (slated to rise from $2.60 per worker to $8.50) isn't a real premium; he calls it "a head tax." Others call the federal pension insurance a "transfer program" and "backdoor industrial policy." What is more, say some congressional pension specialists, the political players for Team Smokestack knew they were creating a corporate bailout program years before "Japan Inc." became a household word.

Last year, Wheeling Pittsburgh Steel, on the brink of being pulled under by its creditors, unloaded an estimated $475 million in unfunded pension obligations on the federal pension corporation. Months earlier, Allis Chalmers shipped $165 million of unfunded obligations. Continental Steel, in Chapter 11 proceedings, has filed to reject two pension plans, with the prospect likely of sending the PBGC a $27.5 million air-ball. Consequently, the PBGC suddenly has an on-paper deficit of $1.3 billion (it plans to litigate the Wheeling-Pitt action).

Successfully off-loading its $425 million pension liability was part of the bankruptcy workout demanded by Wheeling-Pitt banks. The strategy allows these companies to get back in the race, their cost structure significantly lightened by ERISA. That means that healthier companies, such as U.S. Steel, and Cyclops, end up running well-funded pension plans, competing with the Koreans and Europeans, and paying premiums that are used to prop up their reeling competitors. Besides the many steel-industry claims on the program, about 20% of recent plan dumpings have been from companies that aren't in bankruptcy.

Two changes have been proposed to fix this.

Currently, the PBGC has little choice but to pay out the guaranteed level of benefits of a terminated plan. The budget-reconciliation bill Congress failed to pass in the last session contains amendments tightening the procedures under which companies may terminate their unfunded plans. The new rules would give the system powers to significantly challenge terminations. The other proposed change—only an idea now—would induce or require pension plans to use the private insurance system and pay risk-related premiums. This would make the agency something more than a passive mail drop for a sick company's cost burdens. (An attempt to subject Wheeling-Pitt to the new rules failed.)

Another potentially significant change discussed in those congressional amendments is a requirement that the pension corporation study the feasibility of risk-related premiums and private insurance. The Reagan administration has just announced its intention to seek that change.

Private insurers have little experience with which to set such rates and would resist covering pension plans whose unfunded liabilities make them virtually uninsurable. But the current system deserves reorganization. "Insurance" traditionally denotes coverage for unforseen events. However, the process by which some companies are dumping their problems on the PBGC is not an insurable event. Putting well-funded pension plans (as are most plans) under private insurance would allow us to face honestly the question of protecting workers in declining industries.

Those workers often have employers in industries that have little prospect of meeting their unfunded pension liabilities for reasons that include a fundamental loss of competitive position, relatively high wage structures and poor management. These are factors in the natural process of corporate extinction, and securing a realistic level of workers' benefits in these circumstances is a legitimate concern. But it is a misuse of public policy to force well-run companies and their workers to support a federal "insurance" system that penalizes them for the purpose of propping up their less successful and often less efficient competitors.

CANADIAN LUMBER IMPORTS

Mr. EAST. Mr. President, the Canadian softwood lumber trade problem affects virtually the entire United States. We recognize that, so does the administration. That's why the administration has entered into trade talks with Canada centering on the lumber problem. Two meetings have been held to date between the two teams of negotiations, and I understand a third meeting will occur soon.

The administration and the Canadian Government should be congratulated for recognizing that the importation of Canadian softwood lumber is a major trade problem. I commend our country and Canada for seeking a reasonable, responsible, negotiated solution to the problem. It is my firm hope that negotiations between the two governments will succeed at the earliest possible date. In my view, a negotiated solution is far preferable to any legislative solution.

I am convinced that the current slump in the United States timber industry is a direct result of a sharp increase in the Canadian softwood lumber share of the United States market. Canada's share of the market has grown dramatically from less than 20 percent in 1975 to 33.5 percent in 1985, resulting in tens of thousands of lost United States jobs.

There is only one reason for this situation to exist: Canadian Provincial governments are virtually giving away their stumpage at rock-bottom prices. To promote Canadian lumber activity, the Canadian Government sells lumber stumpage rights to producers at prices well below market levels. Certainly, these Canadian Provinces are free to pursue any domestic subsidy they like. But the Congress of the United States ought not sit idly by and watch subsidized Canadian lumber cross the border into the United States, robbing independent small business of their markets, closing mills, and displacing American workers.

Since 1975, Canadian softwood lumber production has increased 103 percent while United States production grew by only 20 percent. Canada has now captured over one-third of the United States market and in my State of North Carolina, Canada has captured 40 percent of the market. Simply stated, Mr. President, our American lumber industry is being overwhelmed by a Canadian industry subsidized, aided, and encouraged by its Government. The result of that situation is an injury to the American worker that ought not be overlooked by this Senate.

Given the clear reason behind the Canadians success in our market, in good conscience, we ought not allow this trend to continue. Either Canada agrees to a meaningful resolution to the problem or we ask the United States Government for an aggressive hard-line correction to assure that our domestic industry can compete with Canadian mills on a level playing field.

APPOINTMENT OF SENATOR MATTINGLY TO CANADA—UNITED STATES INTERPARLIAMENTARY GROUP

The PRESIDING OFFICER (Mr. EVANS), the Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the Senator from Georgia [Mr. MATTINGLY] as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the second session of the 99th Congress to

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